

1 GREEN & NOBLIN, P.C.
2 Robert S. Green
2200 Larkspur Landing Circle, Suite 101
3 Larkspur, California 94939
4 Tel: (415) 477-6700
5 Fax: (415) 477-6710
6 -and-
4500 East Pacific Coast Highway
7 Fourth Floor
8 Long Beach, California 90804
9 Tel: (562) 391-2487
rsg@classcounsel.com
Liaison Counsel for Plaintiffs

10 William B. Federman (admitted *pro hac vice*)
11 FEDERMAN & SHERWOOD
10205 N. Pennsylvania Ave.
12 Oklahoma City, OK 73120
13 Telephone: 405-235-1560
Facsimile: 405-239-2112
14 wbf@federmanlaw.com
15 Lead Counsel for Plaintiffs

16 UNITED STATES DISTRICT COURT

17 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

18
19 MICHAEL J. ANGLE, Individually
and on Behalf of All Others Similarly
20 Situated,

21 Plaintiff,

22 v.
23

24 UTI WORLDWIDE, INC., et al.,

25 Defendants.
26
27
28

Case No. 2:14-cv-02066-CBM-E

**NOTICE OF APPLICATION AND
EX PARTE APPLICATION OF
PLAINTIFF TO FILE A
CORRECTED MEMORANDUM
IN OPPOSITION TO
DEFENDANTS' MOTION TO
DISMISS; MEMORANDUM IN
SUPPORT**

Judge: Hon. Consuelo B. Marshall

Date: August 25, 2015

Time: 10:00 a.m.

Courtroom: 2

EX PARTE APPLICATION

Pursuant to the Federal Rules of Civil Procedure and this Court's Local Rule 7-19, Lead Plaintiff Michael Cutler ("Plaintiff") seeks *ex parte* relief to file a corrected Memorandum of Law in Opposition to Defendants' Motion to Dismiss (the "Memorandum in Opposition"). This is Plaintiff's first request to file a corrected Memorandum in Opposition. The extraordinary relief of an *ex parte* application is necessary on this issue because there is insufficient time to schedule a regularly noticed motion before the passage of the previously set deadline for Defendants' reply in support of their Motion to Dismiss.

Defendants have advised Plaintiff that they do not take a position on this Application.

This Application is made only after providing notice to counsel for Defendants, as required by Local Rule 7-19.1, via e-mail on July 29, 2015 and July 30, 2015.

Defense counsel's information is:

Gary A. Bornstein

CRAVATH, SWAINE & MOORE LLP

825 Eighth Avenue

New York, NY 10019

Tel: (212) 474-1000

gbornstein@cravath.com

In support of this Application, Plaintiff files herewith the accompanying Memorandum of Points and Authorities.

1 Dated: July 30, 2015

Respectfully submitted,

2 s/William B. Federman

3 William B. Federman

4 (admitted *Pro Hac Vice*)

5 A. Brooke Murphy

(admitted *Pro Hac Vice*)

FEDERMAN & SHERWOOD

10205 North Pennsylvania Avenue

Oklahoma City, Oklahoma 73120

Telephone: (405) 235.1560

Facsimile: (405) 239-2112

9 wbf@federmanlaw.com

10 *Lead Counsel for Plaintiffs*

11
12 Robert S. Green

13 GREEN & NOBLIN, P.C.

700 Larkspur Landing Circle, Suite 275

14 Larkspur, California 94939

15 Tel: (415) 477-6700

16 Fax: (415) 477-6710

-and-

17 4500 East Pacific Coast Highway

Fourth Floor

18 Long Beach, CA 90804

19 Tel: (562) 391-2487

rsg@classscounsel.com

20 *Liaison Counsel for Plaintiffs*

MEMORANDUM OF POINTS AND AUTHORITIES

On July 27, 2015, Plaintiff filed his Memorandum in Opposition to Defendants' Motion to Dismiss. (Dkt. No. 57) In an attempt to file the Memorandum in Opposition within the one week deadline while preserving relevant substantive arguments, Plaintiff's Counsel slightly altered the font sizing and spacing so that the brief would satisfy the 25-page limitation. At the time, Plaintiff's Counsel was unaware of the precise requirements of the Court's Local Rule 11-3.1.1, namely that font spacing could not be condensed. On July 28, 2015, Defendants contacted Plaintiff to advise that the font appeared to be smaller than the requirements of the Court's Local Rule 11-3.1.1. Accordingly, Plaintiff seeks an opportunity to file the corrected brief (attached hereto as Exhibit 1) ("Corrected Memorandum"), which complies with the Court's Local Rule 11-3.1.1.

Allowing Plaintiff to file the Corrected Memorandum will not prejudice Defendants since: (1) the Corrected Memorandum has made no substantive changes that altered Plaintiff's arguments; (2) Plaintiff sent a copy of the Corrected Memorandum to Defendants on July 29, 2015, prior to filing this Application; (3) Plaintiff agrees to extend the deadline for Defendants' reply brief until August 6, 2015—one week from the filing of this Application which includes the Corrected Memorandum as an attachment. Under the Court's Order (Dkt. No. 28), Defendants had until August 3, 2015—one week from Plaintiff's deadline to file a response in opposition—to file their reply brief.

For the reasons stated herein, Plaintiff respectfully requests that the Court:

- 1) Grant Plaintiff the opportunity to file the Corrected Memorandum (attached hereto as Exhibit 1); and
- 2) Extend Defendants' deadline to file their reply brief until August 6, 2015.

1 Dated: July 30, 2015

Respectfully submitted,

2 s/William B. Federman

3 William B. Federman

(admitted via *Pro Hac Vice*)

4 A. Brooke Murphy

(admitted via *Pro Hac Vice*)

5 FEDERMAN & SHERWOOD

6 10205 North Pennsylvania Avenue

Oklahoma City, Oklahoma 73120

7 Telephone: (405) 235.1560

8 Facsimile: (405) 239-2112

wbf@federmanlaw.com

9
10 *Lead Counsel for the Class*

11 Robert S. Green

12 GREEN & NOBLIN, P.C.

700 Larkspur Landing Circle, Suite 275

13 Larkspur, California 94939

14 Tel: (415) 477-6700

Fax: (415) 477-6710

15 -and-

16 4500 East Pacific Coast Highway

Fourth Floor

17 Long Beach, CA 90804

18 Tel: (562) 391-2487

rsg@classcounsel.com

19
20 *Liaison Counsel for the Class*

CERTIFICATE OF SERVICE

I hereby certify that this Notice was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on Thursday, July 30, 2015.

/s/ William B. Federman

William B. Federman